

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

SEVENTEENTH FLOOR

FOUR EMBARCADERO CENTER

SAN FRANCISCO, CALIFORNIA 94111-4106

TELEPHONE (415) 434-9100

FACSIMILE (415) 434-3947

JUN 26 1998

01230

OUR FILE NUMBER

WRITER'S DIRECT LINE

June 25, 1998

Mr. Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street Suite 1155
Sacramento, CA 95814

Re: Proposal to Enlarge Shasta Dam

Dear Mr. Snow:

I am writing to express my personal opposition to the proposal to enlarge Shasta Dam. If carried to fruition, this project will pose a multitude of problems and exacerbate existing ones. The continuation of this project evidences CALFED's straying from its commitment to Californians to protect the McCloud River and its environs.

Modifying the McCloud River's flow will negatively impact a number of endangered species protected by the Federal Endangered Species Act, including the bald eagle who is regularly observed nesting in the area. Studies show that up to 30,000 acres of terrestrial wildlife habitat would be inundated with water, including 80 percent of the available winter range in the area for deer and elk as a result of the dam increase. The project will also submerge rare archeological sites, U.S. Forest Service campgrounds and old mines which may leach toxins into drinking and agricultural water.

Most importantly, this proposal appears to be against the law. First and foremost, it ostensibly violates the California Constitution which requires that the water resources of the State of California, including the McCloud River, must be utilized in the best interests of the people and for the public welfare. Cal. Const. art. X § 2. The same principle is codified in California Water Code § 100. In addition to the

Mr. Lester Snow
June 25, 1998
Page 2

huge and unnecessary public cost, it should be readily apparent that enlarging the Shasta Dam will damage environmentally sensitive habitat and wildlife and is not a reasonable or beneficial use of the waterway. Please respond publicly and provide all analyses CALFED has done (if any) concerning alternative means, including enforcement of current water quality and conservation laws, elimination of diversion dams and regulation of agricultural chemical and water use, to address the issue of Bay-Delta water quality. Surely, destroying several miles of one of the most important and pristine river systems in the nation, the McCloud River, by building a bigger dam should be the last, not the first alternative.

In addition, the Shasta Dam proposal violates Public Resources Code § 5093.542, which specifically limits the types of activity allowed on the McCloud River. In 1989, the California legislature recognized the importance of preserving the McCloud River as one of the most "extraordinary resources in that it supports one of the finest wild trout fisheries in the state" and created legislation to prohibit activity along the McCloud, categorizing it as a wild and pristine river with "extraordinary resources." The law specifically prohibits the participation of a California department or agency in construction of any dam, reservoir or diversion that could have an adverse effect on the "free-flowing condition" of the McCloud River, or on its wild trout fishery. Pub. Res. Code § 5093.542 (a)-(c). Please explain how inundating miles of this wild river and turning it into a warm water lake is consistent with the letter and spirit of the above Public Resources Code provisions. Obviously, CALFED has failed to analyze the adverse impacts that the proposed project will have on both the condition of the McCloud River *and* its wild trout fishery.

Just yesterday, the federal Ninth Circuit Court of Appeals in a landmark decision voided a series of major long term water supply contracts for San Joaquin Valley agricultural interests. Natural Resources Defense Council v. Houston (9th Cir. 1998, June 24, 1998, No. 97-16030). The huge on-going water diversion for such growers under the now void contracts is a critical part of the Bay-Delta water problem. In this regard, what is CALFED's analysis of the impact of this decision and the San Joaquin river as a source of supply of fresh water to the Bay Delta?

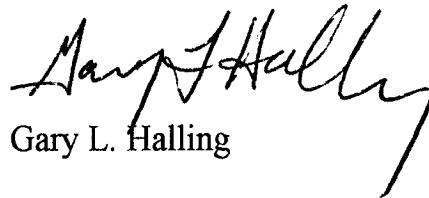
Finally, the proposed Shasta Dam project violates the acknowledged policies of CALFED itself. CALFED's guiding principles require projects to not render significant redirected impacts and to have broad public acceptance as well as legal feasibility. Here, the project would negatively impact other regions of

Mr. Lester Snow
June 25, 1998
Page 3

California. In addition, the project does not have broad public acceptance, nor is it legally feasible, as evidenced by the foregoing legal authorities, including the specific California legislation enacted to preserve the present characteristics of the McCloud River.

In conclusion, CALFED has gone beyond the scope of its authority in proposing this project, and should not be allowed to continue. This concerned citizen expresses the hope that CALFED will recognize its mistake and find alternative methods to increase Bay-Delta water quality.

Sincerely,



Gary L. Halling

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

GLH:ejw

SF1:FJB\LET\003\61094660.1

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

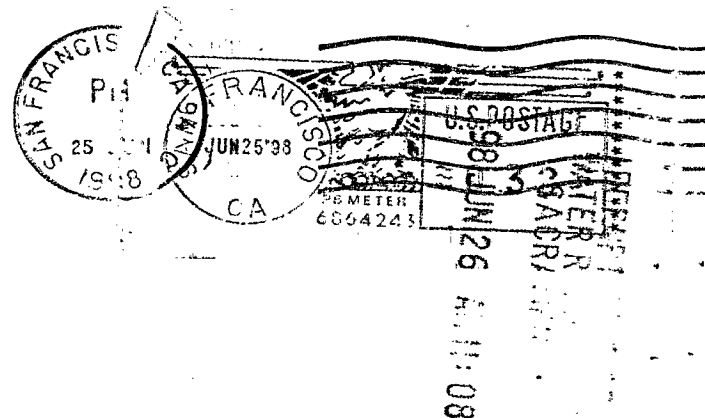
SEVENTEENTH FLOOR

FOUR EMBARCADERO CENTER

SAN FRANCISCO, CALIFORNIA 94111-4106

003-00003

Mr. Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street Suite 1155
Sacramento, CA 95814



003-00003
003-00003

003-00003

C-011811

C-011811